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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-605*

13 **JAMIE DONALD TURGEON**
5510 Armitos Avenue, Apt.16
Goleta, CA 93117

A C C U S A T I O N

14 **Registered Nurse License No. 634257**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about March 12, 2004, the Board of Registered Nursing issued Registered
23 Nurse License Number 634257 to Jamie Donald Turgeon ("Respondent"). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein. On
25 January 31, 2012, the license expired.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing ("Board"), under
28 the authority of the following laws. All section references are to the Business and Professions

Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides in pertinent part:

Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code Section 2700 et seq.)]. As used in this article, "license" includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [the Administrative Procedure Act], and the board shall have all the powers granted therein.

5. Section 2764 of the Code provides:

The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license.

6. Section 118(b) of the Code provides, in pertinent part:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

STATUTORY PROVISIONS

7. Section 2761 of the Code provides in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

8. Section 2762 of the Code provides in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or

1 herself, or furnish or administer to another, any controlled substance as defined in
2 Division 10 (commencing with Section 11000) of the Health and Safety Code or
any dangerous drug or dangerous device as defined in Section 4022.

3 (b) Use any controlled substance as defined in Division 10 (commencing with
4 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
5 device as defined in Section 4022, or alcoholic beverages, to an extent or in a
manner dangerous or injurious to himself or herself, any other person, or the public
or to the extent that such use impairs his or her ability to conduct with safety to the
public the practice authorized by his or her license.

6 9. Section 4022 of the Code provides in pertinent part:

7 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-
8 use in humans or animals, and includes the following:

9 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

10 (b) Any device that bears the statement: "Caution: federal law restricts this device
to sale by or on the order of a _____," "Rx only," or words of similar import, the
blank to be filled in with the designation of the practitioner licensed to use or order
use of the device.

11 (c) Any other drug or device that by federal or state law can be lawfully dispensed
12 only on prescription or furnished pursuant to Section 4006.

13 10. Health and Safety Code section 11170 provides, "No person shall prescribe,
14 administer, or furnish a controlled substance for himself."

15 REGULATORY PROVISIONS

16 11. California Code of Regulations, title 16, section 1445(b) provides:

17 (b) When considering the suspension or revocation of a license on the grounds that
18 a registered nurse has been convicted of a crime, the board, in evaluating the
rehabilitation of such person and his/her eligibility for a license will consider the
following criteria:

19 (1) Nature and severity of the act(s) or offense(s).

20 (2) Total criminal record.

21 (3) The time that has elapsed since commission of the act(s) or offense(s).

22 (4) Whether the licensee has complied with any terms of parole, probation,
restitution or any other sanctions lawfully imposed against the licensee.

23 (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4
of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

24 COST RECOVERY

25 12. Section 125.3 provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licensee found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case.

1 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

2 13. Vicodin is the brand name for a narcotic, which contains a combination of
3 Acetaminophen (aka APAP) and Hydrocodone. This narcotic is generally prescribed to treat
4 moderate to severe pain. It is designated as a Schedule III controlled substance per Health and
5 Safety Code section 11056(e)(4), and categorized as a dangerous drug pursuant to Business and
6 Professions Code section 4022.

7 14. Ambien is the brand name for the sedative hypnotic Zolpidem. This narcotic is
8 generally prescribed to treat insomnia. It is designated as a Schedule IV controlled substance per
9 Health and Safety Code section 11057(d)(32), and categorized as a dangerous drug pursuant to
10 Business and Professions Code section 4022.

11 15. Dextromethorphan is an antitussive (cough suppressant) drug. It is one of the active
12 ingredients in many over-the-counter cold and cough medicines. Dextromethorphan has other
13 uses in medicine, ranging from pain relief to psychological applications. When exceeding label-
14 specified maximum dosages, Dextromethorphan acts as a dissociative hallucinogen.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct - Dangerous Use of Controlled Substances, Drugs, or Alcohol)**

17 16. Respondent's registered nurse license is subject to discipline under Code section
18 2761(a) in accordance 2762(b), for unprofessional conduct in that the Respondent used controlled
19 substances, dangerous drugs, or alcoholic beverages, to an extent or in a manner dangerous or
20 injurious to himself, any other person, or the public or to the extent that such use impairs his
21 ability to conduct with safety to the public the practice authorized by his license.

22 a. On or about August 25, 2011 at about 10:30 a.m., a patrol deputy from the Santa
23 Barbara County Sheriff's Department observed the Respondent's vehicle suddenly make an unsafe
24 lane change, which resulted in a near collision with another vehicle on the highway. During a
25 traffic stop, the deputy noticed the Respondent displayed extremely watery eyes and constricted
26 pupils. The Respondent had slurred speech, emitted and odor of alcohol from his breath, and had
27 what appeared to be a white residue near his nostril. The Respondent initially denied using any
28 illegal narcotics that day. The Respondent was then asked to exit the vehicle for a sobriety

1 evaluation. The deputy recorded the Respondent's pulse rate at 144 beats per minute, and during
2 a Romberg test, the Respondent incorrectly estimated 30 seconds at 44 seconds. The Respondent
3 also had trouble keeping his balance; he swayed laterally side to side and used his arms in an
4 effort to maintain his balance. The Respondent subsequently told the deputy that he is a drug
5 addict and addicted to Vicodin tablets. The Respondent said he takes Vicodin on a regular basis
6 and that the day before he had consumed three Vicodin tablets and three beers, plus some Ambien
7 (Zolpidem) sleeping pills. He also admitted to previously consuming Dextromethorphan for
8 recreational purposes. The Respondent then told the deputy that when he woke up that day he
9 consumed half a beer and that he could feel the effects of the Ambien sleeping pills. A search of
10 his vehicle, revealed two empty beer cans, one half-empty beer can, and one unopened beer can.
11 The Respondent was arrested for a violation of Vehicle Code section 23152(a), driving while
12 under the influence of alcohol or drugs. A blood sample was collected and analyzed by a
13 toxicology laboratory. The results indicated the presence of Zolpidem.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Attempting to Violate a Provision or Term of the Nursing Practice Act)**

16 17. Respondent's registered nurse license is subject to discipline under Code section
17 2761(a) and 2761(d) in accordance 2762(a), for unprofessional conduct in that the Respondent
18 violated or attempted to violate, directly or indirectly, or assisted in or abetted in the violation of,
19 or conspired to violate any provision or term of the Nursing Practice Act by obtaining or
20 possessing in violation of law, or prescribing, or except as directed by a licensed physician and
21 surgeon, dentist, or podiatrist administered to himself, or furnished or administered to another,
22 any controlled substance or any dangerous drug.

23 a. Complainant refers to, and by this reference incorporates, the allegations set forth
24 above in paragraph 16, subparagraphs (a) inclusive, as though set forth fully herein.

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PRAYER

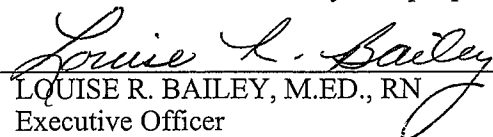
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License Number 634257 issued to Jamie Donald Turgeon;

2. Ordering Jamie Donald Turgeon to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: JANUARY 31, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
State of California
Complainant

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